

APPENDIX A.6



PLANNING DIRECTOR INTERPRETATION (Standard Buffer Width Reduction)

PDI NUMBER: 01-005

SCOPE OF PDI: Note. This PDI does not apply to proposals that are subject to interim procedures for the Endangered Species Act (PDI #2-2000) or to any proposal subject to the reasonable use provisions of the City's Environmentally Sensitive Area regulations (EMC 19.37.050.B, C, and D).

SUBJECT: Criteria for granting standard wetland and stream buffer reductions.

AUTHORITY: Section 41.040 of the City of Everett Zoning Ordinance provides for the Planning Director to "promulgate administrative rules, procedures, and interpretations consistent with the terms of this Ordinance."

BACKGROUND:

- Sections 37.100E and 37.140D of the Zoning Code authorizes the Planning Director to reduce the standard wetland and/or stream buffer width only when there has previously been "substantial legal alteration of the wetland and/or buffer."

"The planning director may, using the review process described in the City's Local Project Review Procedures Ordinance, reduce the standard wetland and/or stream buffer width only when there has been previously substantial legal alteration of the wetland and/or stream buffer on the subject lot or adjoining lots. The planning director shall require buffer width averaging rather than allowing a buffer width reduction except when the proposal includes a wetland and/or stream buffer enhancement plan that improves the functional values of the buffer and the stream or wetland. An enhancement buffer shall not result in more than a fifty percent reduction in the standard buffer width, and the reduced buffer shall not be less than the minimum dimension allowed by buffer width averaging."

- The number of projects submitted with buffer width reduction requests has increased.
- The type of buffers that are described as having "previously substantial legal alterations" vary substantially from project to project.
- There is no definition in the Zoning Code to determine what is meant by: "previously substantial legal alteration."
- However, the Code contains a specific criteria: Reduction can only be granted when a buffer enhancement plan is proposed "that improves the functional values of the buffer and the stream or wetland." (EMC 19.37.100D and E)
- Consistent methodology and application of the Code criteria is needed to determine what constitutes a substantial legal alteration.
- A number of requests for buffer reduction have been submitted on sites where the "previously altered buffer" contains substantial native vegetation including an overstory of deciduous trees, an established understory of shrubs, and groundcover or

woodland duff. In these circumstances, the fact that prior logging has occurred at some point in the past does not constitute "prior legal alteration," that meets the criteria in EMC 19.37.100E and 19.37.140D. In such circumstances, the functional value of the buffer cannot be improved by elimination of up to 50% of an existing native vegetative buffer and enhancement of the reduced buffer.

ADMINISTRATIVE INTERPRETATION: The City will allow standard buffer width reduction on streams and wetlands, where there has been prior substantial legal alteration. The emphasis in reviewing proposed buffer width reductions must be placed on whether the proposed reduction/enhancement plan will "improve functional values" of the buffer.

To meet the legal alteration criteria, the applicant must provide information that the prior alteration was legally allowed. The following documentation would be sufficient:

- A SEPA determination that authorized the prior buffer or wetland or stream alteration.
- A land use or construction permit has authorized the activity.
- The activity predates the City's Environmentally Sensitive Areas Ordinance, EMC 01/31/91, (and has not been substantially revegetated with native vegetation).
- The activity shall not be in violation of section 37.230 (A) legal alterations, and shall not be an unauthorized alteration as defined by section 37.230(B).

The following criteria will be used to determine when substantial legal alterations are present:


1. A graded or substantially altered buffer with no substantial revegetation i.e the buffer is covered with gravel, impervious surface, mowed lawn, or has primarily invasive species (reed canary grass, Himalayan blackberry, purple loosestrife, or other non-native invasive species) covering more than 75% of the buffer area.
2. Substantial clearing of the buffer was authorized and revegetation with native species has not occurred.

A buffer that has been logged in the past but that has revegetated and has an overstory of willow, cottonwood or alder (or Evergreen or mixed Evergreen/deciduous overstory) and an understory shrub layer of non invasive species does not constitute substantial alteration. A deciduous buffer, for example, a buffer that has alder trees or willow does serve as a functioning buffer. Alders fix nitrogen and hold the soil. A canopy of alders breaks the energy and dissipates energy from rain and snow. It also serves as a barrier to human access, provides wildlife habitat and serves other buffer functions.

Buffer width averaging shall be required rather than allowing a buffer width reduction except when the proposal includes a wetland and/or a stream buffer enhancement plan that improves the functional values of the buffer and wetland and/ or stream. An enhanced buffer shall not result in more than a fifty percent reduction in the standard buffer width, and the reduced buffer shall not be less than the minimum dimension allowed by buffer width averaging.

If a limited portion of the buffer has been previously legally altered and meets the above criteria, a buffer width reduction may be approved for that portion of the required buffer.

An enhancement plan must increase the functions and values of the wetland and/or stream and include a monitoring, maintenance and assurance device for the enhancement plan. If the performance of the buffer can not be improved, a reduction in the buffer width will not be granted.

Signed: 
for Paul A. Roberts, Director

Dated: 11-15-01

